

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In Re:
Nicole M.Armond

Chapter: 13

Bankruptcy No.: 22-12962-elf

Cherry Hill Mall Drive, LLC
Movant

vs.

Nicole M.Armond
Debtor

And

Kenneth E. West Trustee
RESPONDENTS

**MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. § 362(d) MODIFYING
AND TERMINATING THE AUTOMATIC STAY AS TO DEBTOR**

Cherry Hill Mall Drive, LLC (the “Movant”) by an through its attorneys Shnayder Law Firm, LLC, as and for its motion (the “Motion”) for an Order: (i) pursuant to 11 U.S.C. § 362(d) providing that the automatic stay imposed by 11 U.S.C. § 362(a) be modified and terminated with respect to real property known as **50 Clayton Road, Glenside, PA 19038** (the “Premises”) currently owned by Nicole M.Armond (the “Debtor”); (ii) waiving the stay invoked pursuant to Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure; and (iii) granting the Movant such other and further relief as this Court deems just and proper. In further support of this Motion, Movant respectfully states:

PROCEDURE

1. The Debtor filed a bankruptcy petition on November 4, 2022 under Chapter 11 of the Bankruptcy Code.

JURISDICTION

2. The Motion for Relief is being brought pursuant to 11 U.S.C. §362(d).

BACKGROUND

3. Movant is the holder of a first mortgage on the Property, which was recorded in the Office of the Recorder of Deeds of Montgomery County, PA on February 1, 2022, Book 15497 Page 00949. A true and correct copy of the mortgage is attached hereto as Exhibit “A.”

4. Debtor is currently in default of the Note and Mortgage as a result of, among other things, Debtor's failure to make regular payments to Movant. The total amount owed under the Note came due no later than March 20, 2022.

5. As of January 19, 2022 the total obligation due under the terms of the Note and Mortgage less any partial payments and suspense balance is approximately \$262,294.96. The unpaid principal balance is \$262,294.96.

7. The Debtor has failed to bring the account current while taxes and insurance continue to accrue and the Property continues to decrease in value.

THE AUTOMATIC STAY SHOULD BE VACATED

8. 11 U.S.C § 362(d) provides in pertinent part; On request of a party in interest and after notice and hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or condition such stay:

1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

2) with respect to a stay of an act against property under subsection (a) of this section if:

(A) the Debtor does not have any equity in such property; and

(B) such property is not necessary to an effective reorganization.

9. Movant has cause to have the Automatic Stay modified as to the Debtor with regard to the Premises to permit Movant to complete foreclosure on its Mortgage.

10. Movant has cause to have relief from the Automatic Stay effective immediately and such relief should not be subject to the fourteen-day period as set forth in Bankruptcy Rule 4001(a)(3), as Movant will incur substantial additional costs and expenses by the imposition of said fourteen-day period.

11. It is respectfully submitted that cause exists to vacate the automatic stay as the Debtor is in default under the terms and provisions of the Note and the Mortgage by, among other things, failing to make payments to the Movant as set forth above. As a result, the Movant's interest in the Premises would not be adequately protected should the automatic stay remain in place.

12. The other Respondent is the Standing Trustee appointed in the present Chapter 13 proceeding.

WHEREFORE, the Movant respectfully request that this court enter an Order vacating or modifying the automatic stay pursuant to 11 U.S.C. § 362(d) as to permit

Movant to foreclose on its mortgage and allow Movant or any other purchaser at Sheriff's Sale to take legal action for enforcement of its right to possession of said premises.

By: /s/ Jennie C. Shnayder
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